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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5208 OF 2005

Ahmed A. Sayyed ... Petitioner

Vs.

Smt. Jubedabi M. Shaikh ... Respondent

Ms. S.A. Mudbidri for the petitioner.

Mr. G.S. Godbole for the respondent.

CORAM: SMT. RANJANA DESAI, J.

DATED: 29TH SEPTEMBER, 2005.

P.C.:-

1. I have heard the learned counsel for the parties, for some time. The learned counsel for the petitioner states that the petitioner has filed an amendment application in the trial court and if the amendment application is granted the petitioner will file a fresh interim injunction application. In view of this, in my opinion, the following order will meet the ends of justice. I may also record that the parties have agreed that for the following order, no reasons are necessary. Hence, the following order:

O R D E R

2. After the petitioner's amendment application is decided by the trial court, the petitioner will be at liberty to file a fresh interim injunction application.

The trial court shall decide the said application after hearing both sides and uninfluenced by the observations made in the order dated 10/6/2005 passed by the Third Ad-hoc Additional District Judge, Kalyan. Till such time as the said injunction application is decided, the respondent shall allow the petitioner to use the disputed lane for the purpose of going to the toilet.

3. It is made clear that if any construction is carried out in the disputed lane, it will abide by the final decision of the suit. Needless to say that the interim order stands vacated.

4. Writ petition is disposed of in the aforestated terms.

5. All concerned to act on the authenticated copy of this order.

(SMT. RANJANA DESAI, J.)